

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSE P. VAZQUEZ,

Plaintiff,

-v-

5:18-CV-1492
(DNH/ATB)

MICHAEL J. ASTRUE, Comm. Social Security
SSA; DAVID STUKOWY, Comm. DSS;
PAROLE NYS, individually and in its official
capacity; and JAMES RESCUE MISSION
PERSONNEL, in his individual and official
capacity with Staff,

Defendants.

APPEARANCES:

JOSE P. VAZQUEZ
Plaintiff, Pro Se
74-A-0117
Collins Correctional Facility
P.O. Box 340
Collins, New York 14034

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Jose P. Vazquez brought this purported civil rights action on December 27, 2018. On September 26, 2019, the Honorable Andrew T. Baxter, United States Magistrate Judge advised by Report-Recommendation that plaintiff's Complaint be dismissed without prejudice as to all claims but that plaintiff be permitted an opportunity to

file an amended complaint only with respect to his claim for injunctive relief against Parole NYS. Plaintiff filed objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Plaintiff's Complaint is DISMISSED IN ITS ENTIRETY WITHOUT PREJUDICE as against defendants Astrue, Stukowy, and James Rescue Mission Personnel for lack of subject matter jurisdiction, with no opportunity to amend;

2. Plaintiff's Complaint is DISMISSED IN ITS ENTIRETY WITHOUT PREJUDICE as against defendant Parole NYS, with an opportunity to file an amended complaint which cures the defects noted in the Report-Recommendation as to defendant Parole NYS with respect to the claim for injunctive relief;

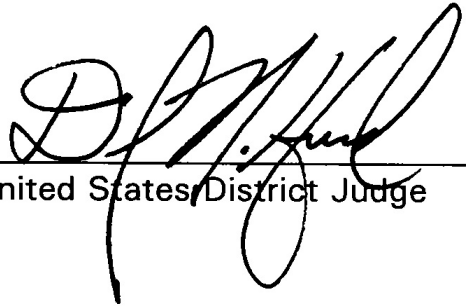
3. Plaintiff is provided an opportunity to file an amended complaint as to the claim for injunctive relief against defendant Parole NYS on or before January 18, 2020;

4. If plaintiff timely files an amended complaint on or before January 18, 2020 as to his claim for injunctive relief against defendant Parole NYS, the file be forwarded to United States Magistrate Judge Andrew T. Baxter for further review; and

5. If plaintiff fails to file an amended complaint on or before January 18, 2020, the Complaint be dismissed in its entirety without prejudice, without further order and the Clerk will enter judgment accordingly.

IT IS SO ORDERED.

Dated: December 19, 2019
Utica, New York.



United States District Judge